

---

# SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

---

**Bill No:** AB 752 **Hearing Date:** June 21, 2017  
**Author:** Rubio  
**Version:** April 18, 2017  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Lynn Lorber

**Subject:** Child care: expulsion

**NOTE:** This bill has been referred to the Committees on Education and Human Services. A "do pass" motion should include referral to the Committee on Human Services.

## SUMMARY

This bill prohibits State Preschool providers from expelling or disenrolling a child as a result of the child's behavior.

## BACKGROUND

Existing law:

- 1) Defines "California state preschool program" as part-day and full-day educational programs for low-income or otherwise disadvantaged three- and four-year old children. (Education Code § 8208)
- 2) Requires the Superintendent of Public Instruction to administer all California state preschool programs, which are to include part-day age and developmentally appropriate programs designed to facilitate the transition to kindergarten for three- and four-year old children in education development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development. (EC § 8235)
- 3) Prohibits, pursuant to federal regulations, a Head Start program from expelling or un-enrolling a child from Head Start based on the child's behavior. (Code of Federal Regulations, Title 45, §1302.17)
- 4) Provides that three- and four-year old children are eligible for state preschool if the family meets at least one of the following criteria:
  - a) A current aid recipient;
  - b) Income eligible;
  - c) Homeless; or
  - d) One whose children are recipients of protective services, or identified as being, or at risk of being, abused, neglected, or exploited. (EC § 8235 and

## § 8263)

- 5) Establishes the California Child Day Care Facilities Act to provide a comprehensive, quality system for licensing child day care facilities to ensure that working families have access to healthy and safe child care providers and that child care programs contribute positively to a child's emotional, cognitive, and educational development, and are able to respond to, and provide for, the unique characteristics and needs of children. (Health and Safety Code § 1596.70 et seq.)
- 6) Authorizes, when the licensing agency has reason to believe that an unlicensed day care facility is operating or that a day care facility is in violation of the California Child Day Care Facilities Act or of the rules and regulations promulgated under the California Child Day Care Facilities Act, the agency to issue a citation to, or impose penalties on, the facility. Existing law requires the Department of Social Services to distinguish between types of violations in relation to the immediate risk to the health, safety, or personal rights of the children in care. (HSC § 1596.893b)
- 7) Requires civil penalties to be imposed only after the day care licensee fails to correct the violation in the specified time period. (HSC § 1596.893b)

**ANALYSIS**

This bill prohibits State Preschool providers from expelling or disenrolling a child as a result of the child's behavior. Specifically, this bill:

- 1) Prohibits a contracting agency from expelling or un-enrolling a child because of a child's behavior, except as provided in # five.
- 2) Requires the contracting agency to pursue and document reasonable steps to maintain the child's safe participation in the program if a child exhibits persistent and serious challenging behaviors.
- 3) Requires the contracting agency, if the child has an individualized family service plan (IFSP) or individualized education program (IEP), to contact (with parental consent) the agency responsible for the IFSP or IEP to seek consultation on serving the child.
- 4) Requires the contracting agency, if the child does not have an IFSP or IEP, to refer the child's parents or legal guardians to the local agency responsible for implementing the federal Individuals with Disabilities Education Act.
- 5) Requires the contracting agency refer the parents or legal guardians to other potentially appropriate placements, the local child care resource and referral agency, or any other referral service available in the local community, if a contracting agency has done both of the following:

- a) Explored and documented reasonable steps to maintain the child's safe participation in the program.
  - b) Determines, in consultation with the parents or legal guardians, the child's teacher, and if applicable, the local agency responsible for implementing the federal Individuals with Disabilities Education Act, that the child's continued enrollment would present a continued serious safety threat to the child or other enrolled children.
- 6) Authorizes the contracting agency to unenroll the child once the criteria in # five are met.
  - 7) Provides that a contracting agency has 180 days to complete the process described above.
  - 8) Prohibits the Department of Social Services (DSS) from issuing a citation or impose a civil penalty to a child day care facility that contracts with the California Department of Education (CDE) for a violation that is solely related to the behavior of a child when the facility is in the process of complying with the provisions described above.
  - 9) Authorizes a child day care facility that contracts with the CDE to appeal a citation or civil penalty issued by DSS that is related to the behavior of a child when the facility is in the process of complying with the provisions described above. This bill requires the DSS to withdraw a citation or civil penalty upon presentation of evidence by the child day care facility that the facility was in the process of complying.
  - 10) Authorizes DSS to issue a citation or impose a civil penalty for a violation related to a child's behavior if the contracting agency is not pursuing and documenting reasonable steps to maintain the child's safe participation in the program.
  - 11) Applies the provisions of this bill only to the California state preschool program.
  - 12) States legislative intent to significantly reduce the expulsion or un-enrollment of children due to challenging behaviors from the California State Preschool Program.
  - 13) States legislative findings and declarations relative to the damaging effects of expulsion on young children.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Recent data shows expulsion occurs frequently in preschool programs across the United States. With a rate of 6.7 expulsions per 1,000 children, three and four year olds enrolled in Pre-K are expelled 3.2 times more frequently than K-12 students. Pre-K expulsion disproportionately affects children of color. Recent studies show that African American children are twice as likely to be expelled as Latino and white children, and five times more likely to be expelled than their Asian American peers. The

disparity is severe for African American four-year old boys. Given the well-established evidence on the benefits for young children of attending a high quality preschool program, particularly in terms of closing the achievement gap, it is deeply concerning that expulsions occur at such a high rate, affecting children (and their families) at a crucial time in their development.”

- 2) **California State Preschool Program.** State Preschool provides both part-day and full-day services to eligible three- and four-year-olds, including: developmentally appropriate curriculum, parent education, meals and snacks, and referral to social and health services for families. State Preschool can be offered in various settings, including child care centers, family child care network homes, school districts, or county offices of education. Approximately two-thirds of children in State Preschool are served by local education agencies, and the remaining one-third are served by community-based organizations. State Preschool programs must have a 1:8 adult-to-child ratio, and a 1:24 teacher-to-child ratio; teachers must have a Child Development Teacher Permit, which includes 24 units in early childhood education and/or child development and 16 general education units.
- 3) **Enough discretion?** This bill prohibits a state preschool program from expelling or un-enrolling a child because of a child’s behavior, unless the program has (a) explored and documented reasonable steps to maintain the child’s safe participation, and (b) determined that the child’s continued enrollment would present a continued serious safety threat to the child or other enrolled children. Opponents cite the need to remove students who pose a threat to other students or themselves. It appears that this bill allows for the unenrollment of a student that poses a threat if the state preschool program has explored and documented reasonable steps to maintain the child’s safe participation in the program.
- 4) **Consistent with Head Start program rules.** Existing federal regulations prohibit a Head Start program from expelling or un-enrolling a child from Head Start based on the child’s behavior. The United States Department of Health and Human Services issued a memo to the field in November 2016, that highlights the requirements and includes a policy statement related to expulsion and suspension in early childhood settings. This bill is closely aligned with the federal regulations and federal policy statement.  
<https://www.acf.hhs.gov/occ/resource/im-2016-03>
- 5) **Technical amendment.** The provisions of this bill that prohibit a state preschool program from expelling a child due to behavioral issues are placed in the general provisions of the Child Care and Development Services Act. **Staff recommends an amendment** to move these provisions to the area of the Education Code that is specific to state preschool programs (Article 7, beginning with Section 8235).

## SUPPORT

Kidango (sponsor)  
American Academy of Pediatrics, California  
California Child Development Administrators Association  
Children’s Defense Fund, California

Congregation Beth Am  
Early Edge California  
Fight Crime: Invest in Kids  
First 5 Association  
First 5 California  
First 5 LA  
Mexican American Legal Defense and Educational Fund  
National Association of Social Workers, California Chapter  
United Domestic Workers of America – AFSCME Local 3930

**OPPOSITION**

California Federation of Teachers

**-- END --**